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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/063,863	05/20/2002	Srinivas Aluri	gems0194/yod	6160
28046	7590	02/09/2005	EXAMINER	
FLETCHER, YODER & VAN SOMEREN			ROY, BAISAKHI	
P. O. BOX 692289				
HOUSTON, TX 77269-2289			ART UNIT	PAPER NUMBER
			3737	

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/063,863

Applicant(s)

ALURI ET AL.

Examiner

Baisakhi Roy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-62 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: "The" should be replaced with "A". Appropriate correction is required.
2. Claim 30 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 30, which is limiting the configuration data processor should be dependent on claim 29 and not on claim 22.
3. Claim 52 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 52, which is limiting the distributing mechanism, should be dependent on claim 44 and not on claim 51.
4. Claim 57 is objected to because of the following informalities: the term 'plant' should be replaced with 'claim'. Appropriate correction is required.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

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1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claim 40 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11-20 and 30-38 of U.S. Patent No. 6418334. Although the conflicting claims are not identical, they are not patentably distinct from each other because the application claims are an obvious broadening of the patent claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

7. Claims 31, 32, 44, 45, 47-50 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-25 of copending Application No. 10044140. Although the conflicting claims are not identical, they are not patentably distinct from each other because the application claims are an obvious broadening of the copending application claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

1. Claims 1-39 and 44-57 are rejected under 35 U.S.C. 102(a) as being anticipated by Senda (2002/0057849).

Regarding claims 1-9, Senda discloses a medical diagnostic method and system comprising of a plurality of communicatively coupled imaging components such as magnetic resonance, computed tomography, and ultrasound for dynamic configuration of medical diagnostic systems, an architecture independent configuration system operable within a plurality of components or medical modalities, a data distributor, extractor, and data processor ([0031] [0036-0047] [0050] [0054] [0057-0071], and claims 1-8).

Regarding claim 10, Senda teaches said system to facilitate additional system configuration ([0031-0037]).

Regarding claim 11, Senda teaches the data distributor to comprise of an event-triggered broadcasting system ([0037]).

Regarding claims 12 and 13, Senda teaches the system to include a component-specific application separator and a script interpreter for the multi-component configuration data ([0033-0037]).

Regarding claims 14-19, Senda teaches said system to include a triggering system which comprises a user interface, an application event response system, a global mode monitoring system, a component status monitoring system, and a component status monitoring system (abstract, [0040] [0047]).

Regarding claims 20 and 21, Senda teaches said data distributor to be disposed on one of the plurality of medical diagnostic components, the component-specific data extractor disposed on remaining components of the medical diagnostic components, and the data processor is disposed on each of the remaining components ([0042-0045]).

Regarding claims 22-26, Senda teaches a medical imaging diagnostic component operable across different imaging modalities, comprising a data provider, and broadcaster of multi-component configuration data having extractable component-specific configuration data for a plurality of communicatively coupled medical diagnostic components, and a data broadcaster of the multi-component configuration data to the plurality of medical diagnostic components ([0013-0015] [0017-0019] [0031] [0036-0045]).

Regarding claims 27-30, Senda teaches the system to be modifiable, comprising an event-triggered distribution system, and a data processor distributing to the plurality of medical diagnostic components ([0013-0019] [0031-0037] [0044-0047] [0061-0065] [0066-0067] [0070]).

Regarding claims 31-36 and 44-57, Senda teaches a medical imaging diagnostic method and system operable across various imaging modalities, comprising a data

receiver comprising extractable component-specific application data for a plurality of medical diagnostic components, a data extractor for extracting the extractable component-specific configuration data, and a data processor for processing the extractable component-specific configuration data ([0013-0015] [0017-0019] [0031] [0036-0045]).

Regarding claim 37, Senda teaches the data distributor to comprise of an event-triggered broadcasting system ([0037]).

Regarding claims 38 and 39, Senda teaches the system to include a component-specific application separator and a script interpreter for the multi-component configuration data ([0033-0037]).

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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3. Claims 40-43 are rejected under 35 U.S.C. 102(e) as being anticipated by Unger et al. (6418334). Unger et al. disclose a configuration system for a medical diagnostic system comprising distribution means for distributing multi-component behavioral or performance data to a plurality of medical diagnostic components and processing means for processing component-specific portions of the multi-component performance data at each of the medical diagnostic components. The reference also teaches said configuration system to include triggering means, means for providing the performance data, and modification means for changing the component-specific portions (abstract, col. 3 lines 1-31 lines 62-67, col. 4 lines 1-35, col. 6 lines 26-48, and claims 11-21, 30-38).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application

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by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claim 58 is rejected under 35 U.S.C. 102(e) as being anticipated by Schmitt (6394353). Schmitt discloses a computer program for a medical diagnostic system comprising a tangible medium configured to support machine-readable code which comprises a broadcasting multi-component configuration system adapted to provide a multi-component configuration file having extractable component-specific configuration data for a plurality of medical diagnostic components (abstract, col. 2 lines 14-39, col. 3 lines 6-13, and claims 1-4).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 59-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmitt in view of Senda. Schmitt does not explicitly teach the medical diagnostic system to include a data assembler, broadcaster, receiver, extractor, and processor. Senda discloses a medical diagnostic system, as set forth above, with a configuration data assembler of the multi-component configuration data, a data broadcaster, a data receiver, a data extractor, and a data processor of the extractable component-specific configuration data ([0037-0071]). It would have therefore been obvious to one of ordinary skill in the art to use the teaching by Senda to modify the teaching by Schmitt for the purpose of utilizing the computer program for effective data analysis.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Baisakhi Roy whose telephone number is 571-272-7139. The examiner can normally be reached on M-F (7:30 a.m. - 4p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

B.R.

BR


BRIAN L. CASLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700